



Town of Southwick

Planning Board

MINUTES

Tuesday, December 15, 2020

MEMBERS IN ATTENDANCE: Michael Doherty, Chair
Marcus Phelps, Vice Chair
Richard Utzinger
David Sutton
David Spina
Jessica Thornton, Associate
Alan Slessler, Town Planner
Meghan Lightcap, Secretary

ABSENT:

A meeting of the Planning Board was conducted via Zoom and was called to order at 7:00 p.m. by Mr. Doherty. He stated that the meeting was being recorded and asked if anyone in the audience was recording the meeting. Selectmen Doug Moglin and Joe Deedy were in attendance as well as many residents, including: Karina Yarrows, Jeff King, Jeremy Fiorentino, Rick Harriman, Mark and Corinne Rolland, Mary and Pat Martin, Mark Kuether, Deb and Jim Patryn, Jeff Dunlap, Tony Vedovelli, , Alie and Brandon Robb, Chris Rooney, Charles Dunlap, Gary and Karen Uliasz, Jeffrey and Elizabeth McCarthy, Amy and Shaun Stack, David Reale, Sarah and Ryan Hedges, Andrew and Mindi Jacob, Bob Dwane, Marie Griffiths, Dave Dziadzio, Joyce Correia and Gary Liquori. David Archambault owner of Virtual Site simulations conducting the balloon tests, John Masuck a representative from R. Levesque and Associates, Dennis Hackett, a reporter with The Reminder and Samuel Riva an Associate Attorney for Campanelli and Associates. The Verizon representatives were Michael Fenton, Ellen Freyman, Stephen Sobey, Jay Latorre, Kip Divito, Dean Gustafson, David Vivian, Sylvester Bhembe and Mark Esposito.

PUBLIC COMMENTS: 7:00 p.m.

None

APPOINTMENTS:

7:05 p.m. 234 College Highway ANR

Mr. John Masuck representing R. Levesque and Associates spoke on behalf of the client. He explained that it was 70 acres of land and the client was looking to create a frontage lot containing the existing house of approximately 2.0 acres along the southwesterly corner of the property fronting on College Highway. The rest of the property would be portioned out as one larger, separate parcel including some out buildings. Mr. Doherty asked if there were any issues with accessing Lot 2 and Mr. Masuck said there was an existing gravel access point.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to approve the ANR for 234 College Highway.

Roll call vote:

Mr. Doherty, yes Mr. Phelps, yes Mr. Utzinger, yes Mr. Sutton, yes
Mr. Spina, yes

The motion passed unanimously.

7:10 p.m. 158 Vining Hill Road ANR

Mr. John Masuck explained that there was an existing frontage lot on the northerly side of Vining Hill Road house number 162 owned by Mr. Dunlap and his neighbor to the north east of him has agreed to sell him a half acre parcel, shown as parcel A on the plan displayed. Mr. Dunlap is looking to combine the existing lot with Parcel A to make a more sizeable lot for his personal use.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to approve the ANR for 158 Vining Hill Road.

Roll call vote:

Mr. Doherty, yes Mr. Phelps, yes Mr. Utzinger, yes Mr. Sutton, yes
Mr. Spina, yes

The motion passed unanimously.

7:15 p.m. Verizon Wireless Cell Tower Continued Public Hearing

Mr. Doherty turned the hearing over to Mr. Phelps. Mr. Phelps began the hearing by asking Attorney Fenton to explain the fourth supplemental set of material Verizon had submitted to the Planning Board, including two sworn affidavits from Engineers Kip Divito and Juan Latorre that fully describe the coverage gap in that area.

Mr. Phelps asked if it was possible for Verizon to move the entrance to the site further over to the west 20 to 25 feet within the right of way. He said it would help prevent issues with wind throw and put a “dog leg” at the entrance of the access road leading from the street through the woods to the site. Mr. Bhembé said he would have to inspect the site and get back to him.

Attorney Riva, an Associate for Campanelli and Associates the company legally representing the residents, stated that they sent a letter to the Planning Board detailing their responses to Attorney Fenton’s submissions. He discussed the waiver form Verizon sent for the balloon float test and that they did not want the broad indemnification clause added and he felt that was not a good faith move for residents as it would shift the risk solely to the residents. He addressed allegations of sabotage during the first balloon float test and that the residents had no clue what had happened. He would not allow into record unless Verizon had some form of proof. He also said that after looking at all of the supplemental material Verizon submitted they failed to prove that they met all requirements and most are speculative and not the hard data that is supposed to be submitted. Attorney Fenton responded that Verizon is extremely confident in the case they laid out and they do not want to let accusations that Verizon acted in bad faith stand uncontested. They have complied with every code and worked within every bylaw that the town has set forth.

Attorney Fenton spoke about the balloon float that had been conducted the previous Saturday December 12 from 12-4p.m. He also stated the second date Monday December 14 from 8a.m.-12 p.m. was postponed because of inclement weather as well as the rain date Tuesday December 15. On the first day of the balloon float, December 12, there was alleged tampering with the consultant’s equipment which necessitates that he ask the Board to disregard any photos taken from that float. Verizon installed and agreed to fly the balloon at the proposed height of 120 feet and while taking photos away from the site the consultant noticed immediately that the balloon had been raised in height. He immediately returned to the site with a member of the Planning Board and discovered that the equipment had been altered raising the balloon up an additional 30 feet. Because this happened Verizon would not be able to determine which photographs had been taken by residents at the proper float height. Verizon has filed a police report and submitted evidence to them regarding this incident and it is an open investigation. In light of this Verizon proposes a new date for the balloon float test December 18 from 9a.m.-1p.m. with a weather date of December 19. The balloon would be a different color (yellow) and he would notify 24 hours in advance, post on website and do a robo call at 6 p.m. the night before. They also welcome residents to submit photos to the Board from this float test as well as ask any residents that want Verizon to take photos from their property to sign a waiver and they would do so.

Dave Dziadzio spoke out about the fact that there was no lack of service in the area as Verizon states and that police do have access to calls within those neighborhoods and Verizon has not proven as such.

Attorney Riva spoke again to address Attorney Fenton's previous comments and said that the waiver Verizon submitted was not "industry standard" and that Attorney Fenton was incorrect. He also feels the allegations of balloon tampering are false and there is no evidence of this, pictures of the float were taken in bad weather conditions, yet they would not take pictures on another day when weather was not as bad and that seems non compliant.

Mr. Phelps took questions from the residents and Deb Patryn said the weather was terrible and people were taking pictures from her driveway as you could see the balloon there and from her backyard. Pat Martin asked to be added to the robo call because he had not received the message sent out to residents and Mr. Moglin explained that residents should go to the Town webpage and sign up for Code Red, that they would not receive a call if they had not previously signed up.

Mr. Phelps entered 3 documents into the record. One was the "doings at the Southwick annual town meeting" on May 16, 2017 Article 28 and another was the Southwick Annual Town Meeting on May 16, 2017 Warrant Explanations for Article 28. He went on to explain that this was the article where the legislative body of the town, the voter's, authorized the Select Board to move forward with leasing the property at 13 Liberty Lane for use of a cell tower. The final document is the actual land lease that the Select Board signed with Verizon on January 27, 2020. He feels the Planning Board members should be aware of these 3 documents.

Mrs. Thornton said that she wanted clarification that Attorney Fenton said there was a Planning Board member witness to the alleged tampering with the balloon float. Mr. Spina spoke up that he was witness to this for the record. He said at approximately 1:15 p.m. he was approached by Verizon's consultant conducting the balloon float and he said that he suspected the balloon was too high and would Mr. Spina mind accompanying him to the site. Mr. Spina went to site with him and he observed that the line was extended out approximately 30 feet too far, more than 150 feet of line was out, they measured this by reeling it all back in and then they let it back out to 120 feet at about 1:38 p.m. Mrs. Thornton asked if he felt this was something accidental and Mr. Spina said he observed that the line was out too far, he didn't observe snagging of the line on the trees but he didn't get to inspect the device. He said it looks something like a fishing pole but he did not see if there was a visible malfunction with the device but it was definitely out too high.

Resident Sarah Hedges said she was outside and saw that the conditions were terrible because of the fog and that she called the phone number on the BSS sign to let them know about the conditions and that the float should be rescheduled and they told her that it was up to Verizon to reschedule but they thought it should be rescheduled as well. She also told them that her neighbor took pictures of and she observed it tangled in the trees and they told her that happens all the time so it doesn't sound like a very scientific test to her. Attorney Fenton said he was happy to provide any level of specificity to the Board regarding the float, and that they do have evidence that the balloon was tampered with and he had experts on the phone that could testify to this. They are conducted professionally based on weather analysis but they are not perfect.

Jeff King another resident said that in regards to the balloon float he had two videos with time stamps, one showing it wrapped in trees and that it seemed more than coincidental that the engineer happened to be talking to a Board member at the time of said tampering. He also asked why they would not allow pictures into record that were taken after the time that the balloon was placed back at the correct height and Attorney Fenton responded that Verizon does have photos with time stamps that were taken subsequent to that incident but because of the feedback that they received regarding the weather conditions that day and some of the testimony he heard earlier, in addition to the fact they are asking the Board to not consider photos taken by residents because it's unlikely that they would be in a position to verify what time those photos were taken and whether they were taken before or after the balloon float height was altered Verizon is agreeing to re-take all of their photos for purposes of consistency.

A **MOTION** was made by Mr. Utzinger and **SECONDED** by Mr. Sutton to continue the public hearing to 7:15 p.m. on January 5, 2021

Roll call vote:

Mr. Phelps, yes	Mr. Utzinger, yes	Mr. Sutton, yes	Mr. Spina, yes
Mrs. Thornton, yes			

The motion passed unanimously.

ROUTINE BUSINESS:

8:00 p.m.

Discussion

Mr. Phelps turned the meeting back over to Mr. Doherty.

MOTION was made by Mr. Phelps and **SECONDED** by Mr. Sutton to approve October 20, 2020 Minutes and use Electronic Signatures.

Roll call vote:

Mr. Doherty, yes	Mr. Phelps, yes	Mr. Sutton, yes	Mr. Spina, yes
Mrs. Thornton, yes			

The motion was passed unanimously.

Being no further business to be brought before the Board, A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to adjourn at 8:46 p.m.

Roll call vote:

Mr. Doherty, yes	Mr. Phelps, yes	Mr. Utzinger, yes	Mr. Sutton, yes
Mr. Spina, yes	Mrs. Thornton, yes		

The motion was passed unanimously.

Due to future meetings being held via Zoom, the meeting minutes will be approved via electronic signature on 1/5/21

Respectfully submitted,
Meghan Lightcap

The Next Meeting is January 5, 2021